display the national flag for advertising purposes, but not restricting its use in exhibitions of art. This act was declared unconstitutional by the supreme court of that state. "The legislature clearly has no power to deny to plaintiff in error the right to use the national flag to advertise his business . . . and at the same time to permit artists or art exhibitors to use the same." *Ruhstrat* v. *People*, 185 Ill. 133, 57 N. E. 41, 49 L. R. A. 181, 76 Am. St. Rep. 30. The legislature in enacting such statutes may think that the discrimination is justified from the fact that an art exhibition appeals to higher sentiments than does the advertising of a merchant. The New York statute was enacted April 24, 1903. In that same year Nebraska, Utah, Missouri, Delaware, and New Mexico enacted similar statutes forbidding the use of the flag for advertising merchandise, but providing that the prohibition shall not apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence. The New Mexico statute differs in that the only use of the device not prohibited is upon ballots for voting. The question is a novel one and capable of final adjudication only by the supreme court of the United States.

CONSTITUTIONAL LAW—JURISDICTION OF EQUITY TO TRY TITLE TO OFFICE—INJUNCTION.—In 1900 one C was appointed superintendent of the Albany Penitentiary for a term of five years, at an annual salary of $3,000. In 1902 the legislature passed a statute providing that the salary might be fixed by the commissioners of the penitentiary; also authorizing them at their discretion to dispense with the services of the superintendent and place the penitentiary under the custody of the sheriff. The commissioners, acting under this authority, attempted to discharge C and turn the office over to the sheriff. C brings this action under the code, and asks that a mandamus issue against the treasurer to compel the payment of his salary and for an injunction restraining the commissioners from interfering with the exercise of his duties and privileges as superintendent. He alleges that the act is unconstitutional because it embraces more than one subject, and that the subject is not expressed in the title. *Held*, (1.) that the act is unconstitutional because the subject is not sufficiently expressed in the title; (2.) that the mandamus should issue; (3.) that the injunction should be refused. *Corscadden* v. *Howe; Corscadden* v. *Haswell et al.* (1904), — N. Y. —, 69 N. E. Rep. 1114.

The court is unanimous as to the unconstitutionality of the Act, and in holding that mandamus should issue. The injunction prayed for is refused on the ground that equity has no jurisdiction to try title to office. PARKER, C. J., O'BRIEN, and WORMER, J J., dissent from the refusal to grant the injunction. PARKER, C. J., concedes that Equity cannot try title to office, but he maintains that the title to office is not involved. The decisions are uniform in declaring that equity will not try the title to office by injunction. *Tappan* v. *Gray*, 9 Paige 507; *Matter of Sawyer*, 124 U. S. 200; *White* v. *Berry*, 171 U. S. 366; *People ex rel. Wood* v. *Draper*, 24 Barb. 265; *Mott* v. *Connolly*, 50 Barb. 516; MECHEM ON PUBLIC OFFICERS, 994; HIGH ON INJUNCTIONS, 1312. But it seems that Chief Justice PARKER is correct in his contention that the question of title to office is not involved. Whatever question of title to office there may have been, was determined by the decision that the statute is unconstitutional and by the granting of the mandamus. If a public officer can be protected in the discharge of his duties against a mere trespasser without claim of right, he surely may be against one whose claim has been declared void. *Rathbone* v. *Wirth*, 150 N. Y. 459, is in point,

except that the suit in that case was brought by a tax-payer, instead of by the officer interested. In *Brady* v. *Sweetland*, 13 Kans. 41, an injunction was granted in favor of a de facto officer to restrain interference by a claimant out of possession until the title should be determined by quo warranto. If he could be protected while his title is in dispute, he surely could be after it has been determined in his favor. See also, HIGH ON INJUNCTIONS, 1315.

CONTRACT—VALIDITY—CONDITIONS ATTACHED TO GOODS—PURCHASE BY RETAIL TRADER FROM WHOLESALE TRADER WITH NOTICE.—The plaintiffs, manufacturers of tobacco, sold packet tobacco subject to printed terms and conditions, fixing a minimum price below which they were not to be sold, and containing the following proviso: "Acceptance of the goods will be deemed a contract between the purchaser and T. & Co. (the plaintiffs), that he will observe these stipulations. In the case of a purchase by a retail dealer through a wholesale dealer, the latter shall be deemed to be the agent of T. & Co." T. & Co. sold to N, who resold for his own profit to the defendants, who had notice of the conditions, but sold to the public at a price below the stipulated minimum. The plaintiffs bring this suit in equity to enforce the contract. *Held*, that there was no contract between the plaintiffs and the defendants which the plaintiffs could enforce. *Taddy & Co.* v. *Sterious & Co.* [1904], 1 Ch. 354.

The plaintiffs contended: first, that the conditions constituted a contract made by Sterious & Co., with N, as plaintiff's agent, and second, that the goods were sold subject to certain conditions, and that as defendants had notice of these conditions they must conform to them in selling the goods. The court held as to the first contention that as the wholesale dealer had purchased the goods and was selling them for his own profit, he was not the agent of the plaintiff, and could not be made so by a mere insertion of the words that he was to be deemed an agent. As to the second contention the court held that conditions of this kind do not run with the goods, and cannot be attached to the goods so as to bind all purchasers with notice.

CORPORATIONS—FORFEITURE OF CHARTER—MANDAMUS.—A statute of Illinois required the filing of annual reports by all corporations of a certain class and provided that "a failure to make said report and pay said fee, shall be *prima facie* evidence that said corporation is out of business and shall work a forfeiture of the charter of such corporation," and directed that upon such failure, the secretary of state enter on his records the cancellation of the charters of such corporations as failed to comply with the statute. Corporations whose charters had been so forfeited might be re-instated upon payment of a larger fee within one year. The secretary of state, acting under this statute, entered on his records a cancellation of relator's charter, and mandamus is brought to compel him to revoke the forfeiture, on the ground of the unconstitutionality of the statute. *Held*, that the statute is constitutional. *People ex rel. Hillel Lodge* v. *Rose* (1904), — Ill. —, 69 N. E. Rep. 762.

Some question was made as to the power of the state to require annual reports, but the court thought that it fell within the general provision of the statute (1872) under which the corporation was organized, empowering the state to "prescribe such regulations as seem advisable." (*City of Danville* v. *Danville Water Co.*, 178 Ill. 299). The main question in the case was as to the provision regarding forfeiture, the effect of which, according to complainant's interpretation, was to empower a ministerial officer to declare a forfeiture of a corporation's charter, and that this, in